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14 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
15 IN AND FOR THE COUNTY OF MARICOPA

16 THE STATE OF ARIZONA ex rel. TERRY  
17 GODDARD, the Attorney General, and THE  
18 CIVIL RIGHTS DIVISION OF THE ARIZONA  
19 DEPARTMENT OF LAW,

20 Plaintiff,

21 vs.

22 TIM'S BUICK, HYUNDAI, SUBARU & GMC,  
23 INC., and TIM'S AUTO GROUP, INC.,

24 Defendants.

No.

CV2010-022111

COMPLAINT

(Employment Dispute—Discrimination)

25 Plaintiff, the State of Arizona ex rel. Terry Goddard, the Attorney General, and the  
26 Civil Rights Division of the Arizona Department of Law (collectively the "State"), for its  
Complaint, alleges as follows:

## INTRODUCTION

This is an action brought under the Arizona Civil Rights Act to correct an unlawful employment practice, to provide appropriate relief to an aggrieved person, and to vindicate the public interest. Specifically, the State brings this matter to redress the injury sustained because Defendants engaged in unwelcome sexual conduct toward Candy Lambrecht that was sufficiently pervasive or severe to alter the terms and conditions of her employment and to compel her to resign her position in violation of the Arizona Civil Rights Act, A.R.S. § 41-1463(B)(1).

## JURISDICTION AND VENUE

1. This Court has jurisdiction of this matter pursuant to A.R.S. § 41-1481(D).
2. Venue is proper in Maricopa County pursuant to A.R.S. § 12-401(17).

## PARTIES

3. The Civil Rights Division of the Arizona Department of Law ("Division") is an administrative agency established by A.R.S. § 41-1401 to enforce the provisions of the Arizona Civil Rights Act, A.R.S. § 41-1401 *et seq.* ("ACRA").

4. The State brings this action on its own behalf and on behalf of Candy Lambrecht ("Lambrecht"), an aggrieved person, as provided by A.R.S. §§ 41-1481(D) and (G).

5. At all relevant times, Timothy J. Coury ("Coury") was the President and Director of Tim's Buick, Hyundai, Subaru & GMC, Inc., and Tim's Auto Group, Inc.

6. At all relevant times, Tim's Buick, Hyundai, Subaru & GMC, Inc., and Tim's Auto Group, Inc., were Arizona corporations with a principal place of business located at 1006 Commerce Drive in Prescott, Arizona 86305.

7. At all relevant times, Defendants were employers of Lambrecht within the meaning of A.R.S. § 41-1461(4)(a).

8. At all relevant times, Lambrecht was an employee of Defendants within the meaning of A.R.S. § 41-1461(3)(a).

9. Defendants were legally responsible for the acts or omissions giving rise to this cause of action and legally and proximately responsible for damages as alleged pursuant to A.R.S. § 41-1481(G).

## BACKGROUND

10. Candy Lambrecht began her employment with Defendants on August 18, 2008, as a clerical assistant in the auto body shop, where she answered phones, helped customers, and followed up with insurance companies. She did not have much knowledge of car parts, and her job did not require such knowledge.

11. After Defendants hired Lambrecht, Coury visited the body shop approximately four times to see Lambrecht. Coury also began to call the body shop to ask her questions outside of her job duties.

12. Coury once asked Lambrecht if she had breast implants.

13. Lambrecht's immediate supervisor was the body shop manager. He had worked for Defendants before, and had not met Coury until Lambrecht began working in the body shop.

14. In October 2008, Coury asked Lambrecht if she was a masseuse, told her that she reminded him of his former masseuse in Phoenix, and asked her to give him a massage. Lambrecht told him no.

15. Lambrecht documented this October 2008 incident with her immediate supervisor. Lambrecht and the immediate supervisor did not take the incident to human resources because they feared losing their jobs if they reported the incident.

16. Coury repeatedly called Lambrecht into his office behind closed doors, where he would request a massage despite her protests. Coury once told Lambrecht that there was an empty office at another location and requested that they meet in that vacant office during her lunch hour so that she could give him a massage. Lambert repeatedly rebuffed Coury's solicitations.

1           17. In February 2009, Coury decided that Lambrecht should start selling auto parts  
2 outside the office to other auto repair shops. Lambrecht's immediate supervisor expressed  
3 concern to Coury about whether Lambrecht was qualified for this position or whether Coury  
4 had asked her just because she was an attractive female.

5           18. On February 20, 2009, Defendants terminated this supervisor after he had  
6 expressed these concerns.

7           19. On February 23, 2009, Coury called Lambrecht into his office, closed the door, and  
8 blocked it with a chair. Coury removed his shirt and tie and directed Lambrecht to massage  
9 his back. Lambrecht told Coury no and asked him to put his shirt back on.

10           20. Coury cupped his hands near Lambrecht's waist and asked to touch her waist.  
11 Lambrecht said no, but Coury's hand still brushed her breast as he moved away. Coury further  
12 asked Lambrecht to come into the private bathroom in his office. She declined.

13           21. Coury put on his shirt and unzipped his pants. While sitting in a chair and tucking  
14 his shirt in, he pressed his hands against both sides of his penis and asked her if it was large.  
15 Lambrecht told Coury she was happily married and in love with her husband, and immediately  
16 left Coury's office.

17           22. The next day that Lambrecht worked, February 26, 2009, Lambrecht met with  
18 Coury to discuss the February 23, 2009 incident. She took a tape recorder with her. Coury  
19 admitted some of his behavior on tape, but he did not take any responsibility for it.

20           23. Also on February 26, 2009, after her conversation with Coury, Lambrecht went to  
21 Defendants' human resources department and said she was resigning because she had been  
22 sexually harassed. Although Lambrecht did not identify Coury, the human resources  
23 representative guessed that it was he who had harassed her. The human resources  
24 representative advised Lambrecht to retain her own attorney to investigate her allegations  
25 because no employees would provide evidence against Coury to human resources for fear of  
26 losing their jobs.

1       24. As a result of Coury's conduct, Lambrecht was exposed to a hostile work  
2 environment that changed the terms and conditions of her employment based on sex.  
3 Lambrecht suffered extreme anxiety and emotional and physical distress, and felt compelled to  
4 resign her employment with Defendants.

5       25. On April 15, 2009, Lambrecht filed a timely charge of discrimination on the basis  
6 of sex, and the Civil Rights Division began to investigate the charge.

7       26. The Civil Rights Division issued its Reasonable Cause Determination on  
8 Lambrecht's charge on March 24, 2010.

9       27. To date, despite good faith efforts, Lambrecht, the Division and Defendants have  
10 been unable to enter into a conciliation agreement as provided by A.R.S. § 14-1481(D).

11       28. The parties having thus exhausted their administrative remedies, the State is  
12 authorized to file this Complaint pursuant to A.R.S. § 14-1481(D).

### 13                               STATEMENT OF CLAIMS

14       29. The State re-alleges and incorporates by reference the allegations contained in  
15 paragraphs 1 through 28 of this Complaint.

16       30. Under A.R.S. § 41-1463(B)(1), it is an unlawful employment practice for an  
17 employer to discriminate against any individual with respect to compensation, terms,  
18 conditions, or privileges of employment because of such individual's sex.

19       31. Defendant unlawfully discriminated against Lambrecht in violation of A.R.S. §  
20 41-1463(B)(1) by subjecting her to severe or pervasive conduct of a sexual nature which  
21 changed the terms and conditions of Lambrecht's employment and created a hostile work  
22 environment because of her sex, female.

23       32. As a result of Defendants' unlawful discrimination and Lambrecht's constructive  
24 discharge, Lambrecht suffered monetary damages for which she should be compensated in an  
25 amount to be determined at trial pursuant to A.R.S. § 41-1481(G).  
26

1           33. To remedy the effects of Defendants' discrimination, Lambrecht also is entitled to  
2 affirmative and injunctive relief under A.R.S. § 41-1481(G).

3                                   **PRAYER FOR RELIEF**

4           WHEREFORE, the State requests that this Court:

5           A.     Enter judgment on behalf of the State, finding that Defendants unlawfully  
6 discriminated against Lambrecht in violation of the Arizona Civil Rights Act.

7           B.     Enjoin Defendants, their successors, assigns and all persons in active concert or  
8 participation with Defendants, from engaging in any employment practice, including sexual  
9 harassment of employees, that discriminates in violation of the Arizona Civil Rights Act.

10          C.     Order Defendants, their successors, assigns and all persons in active concert or  
11 participation with Defendants, to create and enforce policies, practices and programs that  
12 provide equal employment opportunities for all their employees, and that eradicate the effects  
13 of their present unlawful employment practices, including but not limited to policy changes  
14 and training.

15          D.     Order Defendants, their successors, assigns and all persons in active concert or  
16 participation with Defendants, to adopt and enforce an equal opportunity in employment  
17 policy that prohibits sexual harassment and that includes a procedure for reporting and  
18 investigating allegations of sexual harassment as well as for sanctioning substantiated  
19 allegations of sexual harassment.

20          E.     Issue an Order authorizing the State to monitor Defendants' compliance with the  
21 Arizona Civil Rights Act and order Defendants, successors, assigns and all persons in active  
22 concert or participation with Defendants, to pay the State a reasonable amount for such  
23 monitoring.

24          F.     Award the State its taxable costs incurred in bringing this action.

25          G.     Award monetary damages to Lambrecht in an amount to be proven at trial.  
26

1 H. Grant such other and further relief as this Court may deem just and proper in the  
2 public interest.

3 Dated this 16th day of July, 2010.

4 TERRY GODDARD  
5 Attorney General

6  
7 By Ann Hobart

8 Ann Hobart  
9 Assistant Attorney General  
10 Civil Rights Division  
11 Attorneys for Plaintiff,  
12 State of Arizona

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